



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

in re application of:

Cuckler, et al.

Reissue Application for:

U.S. Patent No. 5,931,870
issued August 3, 1999

Art Unit:

Examiner:

Serial No.: 09/920,432

Filed: August 1, 2001

For: ACETABULAR RING PROSTHESIS WITH REINFORCEMENT
BUTTRESS

Attorney Docket No. 10557/247605
Date: March , 2002

BOX REISSUE
Commissioner of Patents
and Trademarks
Washington, D.C. 20231

RECEIVED
MAR 29 2002
OFFICE OF PETITIONS

DECLARATION OF WILLIAM B. CLEMMONS, JR.

Sir:

1. My name is William B. Clemmons, Jr. I am over the age of eighteen and I am competent to make this declaration based on my personal knowledge of the facts stated herein. I understand that this declaration will be presented to the United States Patent and Trademark Office in connection with the above-referenced application.
2. I am employed by Smith & Nephew, Inc. as a Patent Attorney.
3. I have made several attempts to obtain Dr. John M. Cuckler's signature on the declaration form which is required by the U.S. Patent and Trademark Office.

(a) On or about June 15, 2001, I sent Dr. Cuckler a copy of an amendment containing the claims to be added to U.S. Patent No. 5,931,870 and a declaration for his signature. I advised him that the deadline for filing the reissue application was August 3, 2001. The cover letter forwarding those documents is attached at Tab A.

(b) In a letter dated July 20, 2001, attached at Tab B, I again requested Dr. Cuckler's signed declaration.

(c) In another letter dated July 30, 2001, attached at Tab C, I responded to various questions posed by Dr. Cuckler and again requested the signed declaration.

4. Because I was unable to obtain a signed declaration from Dr. Cuckler, the reissue application was filed on August 1, 2001 with an unexecuted declaration.

5. The U.S. Patent Office issued a Notice to File Missing Parts on September 17, 2001, which set a deadline of November 17, 2001 for the filing of the signed declaration. My additional attempts to contact Dr. Cuckler included at least:

(a) a December 6, 2001 letter advising Dr. Cuckler of the December 17, 2001 deadline (with a one-month extension of time); and

(b) a telephone message left with Dr. Cuckler's answering service early in the week of January 14, 2002.

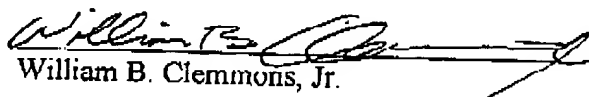
6. Because my efforts to contact Dr. Cuckler were fruitless, I asked Kristin Mallatt at Kilpatrick Stockton LLP for assistance. See Declaration of Kristin D. Mallatt. Briefly, my understanding is that she sent a letter to Dr. Cuckler via Certified Mail Return Receipt Requested, enclosing a copy of U.S. Patent No. 5,931,870, the

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amendment adding claims 47-76, a Reissue Application Declaration for signature, and a self-addressed postage paid Federal Express envelope so that he could return the declaration immediately at no cost to him. The letter summarized my efforts and indicated that if she did not receive the signed declaration by March 8, 2002, we would assume that Dr. Cuckler was refusing to join the other inventors in the reissue application. It is my understanding that Dr. Cuckler has still not forwarded the signed declaration.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of the application or any patent issuing thereon.

Signed this 8th day of March 2002.


William B. Clemmons, Jr.